IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 36560 of 2007(B)

PETITIONER:

P.GODAVARMAN THAMPURAN
PAKKATTU MADHOM, (JAYA VILAS)
P.O. CHERUVALOOR, VIA KORATTY,
THRISSUR DISTRICT.

BY ADV. SRI.P.RAVINDRAN (SR.)
SRI.ANIL SIVARAMAN
SRI.HARIKRISHNAN RAVINDRAN

RESPONDENTS:

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1. THE DIRECTOR OF PUBLIC INSTRUCTION,
KERALA, THIRUVANANTHAPURAM.

2. THE ASSISTANT EDUCATIONAL OFFICER,
CHALAKUDY.

3. PRESIDENT. MUKUNDAPURAM TALUK,
N.S.S.UNIT, IRINJALAKUDA, THRISSUR DISTRICT.

BY GOVERNMENT PLEADER, SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C) No. 36560 of 2007(B)

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Dated this the 11th day of December, 2007

JUDGMENT

The petitioner claims to be entitled to be the manager of the Native Lower Primary School, Koratty in preference to the 3rd respondent. Claiming this relief, the petitioner filed an application before the Director of Public Instruction. By Ext.P1 judgment, this Court directed the DPI to consider petitioner's representation. Pursuant to the same, the Additional Director of Public Instruction passed Ext.P4 order. The relevant portion of the order reads as follows:

> "Sri. Ramankutty Menon, the President of Mukundapuram Taluk NSS Union has argued that Sri.Panampally Raghava Menon was absolute pocession (sic) of the School in capacity on the Educational Agency and Manager. Sri.Godavarman Thampuran and Sri.Somavaraman (sic) Thampuran fileld (sic) an appeal as A.S. No.28 of 1992 before Sub Court, Irinjalakuda against the judgment in O.S.No.955 of 1987 and the said appeal was dismissed by the Sub Court, Irinjalakuda by Judgment dated 2.12.1998. It is clear that Sri.Godavarman Thampuran, the petitioner has no right over the School property and the ownership of the School vested in late Sri.Panampally Raghava Menon and the same was transferred by him before his death in favour of Mukundapuram Taluk NSS, Karayogam Union. As per the bye-law, the elected President will be the Manager of the School."

2. The petitioner disputes the right of the Karayogam to be

the educational agency on the ground that the rights of management of a school cannot be bequeathed by a will. I am of the opinion that this is a pure property dispute between the petitioner on the one hand and the NSS, Karayogam on the other hand in respect of the ownership of the property comprised of the school. The educational authorities cannot decide the dispute regarding title to the property as between the petitioner and the 3rd respondent. That necessarily has to be decided in an appropriate civil suit. The Additional Director of Public Instruction has relied on the decrees in a civil suit and appeal. The petitioner's contention is that those decrees are not conclusive to decide the rights between parties. That again is a matter which should be decided by a civil court. The petitioner has no case that petitioner has ever been the manager of the school. I am of opinion that it would not be in the interests of the school, teachers and the students to unsettle the present position until the issue relating to title is resolved in a civil suit. That being so, I am of the opinion that until the rights of the parties are duly settled in a civil suit, the present position should continue as far as the management of the school is concerned. In such circumstances, I do not find any infirmity in Ext.P4 order now passed. In the above

circumstances, the writ petition is dismissed, without prejudice to the rights of the petitioner to get his rights established in accordance with law.

S.SIRI JAGAN,
JUDGE

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